

HOUSE BILL NO. 278

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES HAWKER, Foster

Introduced: 4/19/05

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Municipal Bond Bank Authority; permitting the Alaska
2 Municipal Bond Bank Authority or a subsidiary of the authority to assist state and
3 municipal governmental employers by issuing bonds and other commercial paper to
4 enable the governmental employers to prepay all or a portion of the governmental
5 employers' shares of the unfunded accrued actuarial liabilities of retirement systems
6 and authorizing governmental employers to contract with and to issue bonds, notes, or
7 commercial paper to the authority or its subsidiary corporation for that purpose; and
8 providing for an effective date."

9 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

10 * **Section 1.** AS 44.85.010 is amended to read:

11 **Sec. 44.85.010. Legislative policy.** (a) It is the policy of the state to

12 (1) [TO] foster and promote by all reasonable means the provision of

adequate capital markets and facilities for borrowing money by municipalities in the state to finance capital improvements or for other authorized purposes, to assist these municipalities in fulfilling their capital needs and requirements by use of borrowed money within statutory interest rate or cost of borrowing limitations, to the greatest extent possible to reduce costs of borrowed money to taxpayers and residents of the state, and equally to encourage continued investor interest in the purchase of bonds or notes of municipalities as sound and preferred securities for investment;

(2) [TO] encourage municipalities to continue their independent undertakings and financing of capital improvements and other authorized purposes and to assist them by making capital funds available at reduced interest costs for orderly financing of capital improvements and other purposes especially during periods of restricted credit or money supply, particularly for those municipalities not otherwise able to borrow for capital needs;

(3) [TO] assist municipalities to provide for adequate insurance coverage by authorizing the Alaska Municipal Bond Bank Authority to issue negotiable or nonnegotiable revenue bonds, notes, or certificates of participation either directly or through an entity it may create for the purpose of providing a self-insurance program for municipalities or municipal joint insurance arrangements organized under AS 21.76;

(4) assist governmental employers to prepay all or a portion of their share of unfunded accrued actuarial liabilities of retirement systems in an effort to reduce their costs of satisfying their contractual obligations to provide retirement and other benefits to public employees through the issuance of bonds, notes, or commercial paper by the bond bank authority or by a subsidiary corporation created by the bond bank authority under AS 44.85.085.

(b) The legislature further declares that

(1) the exercise of the powers of the state in the interest of its municipalities **and in the interest of public employees of the state and of its municipalities** is required to further and implement the policies declared in (a) of this section by authorizing the creation of a state bond bank authority as a body corporate and politic that will have full powers to borrow money and to issue its bonds and notes

to make capital funds available for borrowing by municipalities and for borrowing by or on behalf of governmental employers, by authorizing governmental employers to contract with the bond bank authority or with a subsidiary created under AS 44.85.085 for the purpose of reducing future costs of providing retirement and other benefits to employees, and by granting broad powers to the bond bank authority to carry out the declared policies, which are in the public interest of the state and its taxpayers and residents;

(2) state funds should be applied or authorized to be paid to a state bond bank authority only to provide adequate assurance and security to the holders of the bonds or notes of the bond bank authority;

(3) the bond bank authority should conduct its operations to provide the lowest rates in terms of borrowing to municipalities and to governmental employers as is consistent with a self-supporting operation with no expectation of subsidization with state funds; the legislature does not intend that the bond bank authority be utilized as a means to finance municipalities or governmental employers beyond their capability to meet repayment schedules and debt service requirements of bonds, notes, commercial paper, or contractual obligations to the bond bank authority [OR NOTES].

* **Sec. 2.** AS 44.85.080 is amended to read:

Sec. 44.85.080. Powers of bond bank authority. The bond bank authority may

- (1) sue and be sued;
- (2) adopt and alter an official seal;
- (3) make and enforce bylaws and regulations for the conduct of its business and for the use of its services and facilities;
- (4) maintain an office at any place in the state;
- (5) acquire, hold, use, and dispose of its income, revenues, funds, and money;
- (6) acquire, rent, lease, hold, use, and dispose of other personal property for its purposes;
- (7) subject to AS 44.85.100(b), borrow money and issue its negotiable

1 bonds or notes and provide for and secure their payment, provide for the rights of their
2 holders and purchase, hold and dispose of any of its bonds or notes;

3 (8) fix and revise from time to time and charge and collect fees and
4 charges for the use of its services or facilities;

5 (9) accept gifts or grants from the United States, or from any
6 governmental unit or person, firm, or corporation, carry out the terms or provisions or
7 make agreements with respect to the gifts or grants, and do all things necessary,
8 useful, desirable, or convenient in connection with procuring, accepting, or disposing
9 of the gifts or grants;

10 (10) do anything authorized by this chapter, through its officers,
11 agents, or employees or by contracts with a person;

12 (11) make, enter into, and enforce all contracts necessary, convenient,
13 or desirable for the purposes of the bond bank authority or pertaining to a loan to a
14 political subdivision, a purchase or sale of municipal bonds or other investments, or
15 the performance of its duties and execution of any of its powers under this chapter;

16 (12) purchase or hold municipal bonds at prices and in a manner the
17 bond bank authority considers advisable, and sell municipal bonds acquired or held by
18 it at prices without relation to cost and in a manner the bond bank authority considers
19 advisable;

20 (13) invest funds or money of the bond bank authority not required at
21 the time of investment for loan to political subdivisions for the purchase of municipal
22 bonds, in the same manner as permitted for investment of funds belonging to the state,
23 except as otherwise provided in this chapter;

24 (14) prescribe the form of application or procedure required of a
25 political subdivision for a loan or purchase of its municipal bonds, fix the terms and
26 conditions of the loan or purchase, and enter into agreements with political
27 subdivisions with respect to loans or purchases;

28 (15) render services to a political subdivision in connection with a
29 public or private sale of its municipal bonds, including advisory and other services,
30 and charge for services rendered;

31 (16) charge for its costs and services in review or consideration of a

1 proposed loan to a political subdivision or purchase by the bond bank authority of
 2 municipal bonds of the political subdivision, whether or not the loan is made or the
 3 municipal bonds purchased;

4 (17) fix and establish terms and provisions with respect to a purchase
 5 of municipal bonds by the bond bank authority, including date and maturities of the
 6 bonds, provisions as to redemption or payment before maturity, and any other matters
 7 which in connection with the purchase are necessary, desirable, or advisable in the
 8 judgment of the bond bank authority;

9 (18) procure insurance against any losses in connection with its
 10 property, operations, or assets in amounts and from insurers as it considers desirable;

11 (19) to the extent permitted under its contracts with the holders of
 12 bonds or notes of the bond bank authority, consent to modification of the rate of
 13 interest, time and payment of installment of principal or interest, security or any other
 14 term of a bond or note, contract or agreement of any kind to which the bond bank
 15 authority is a party;

16 (20) by regulation, create a new entity or new entities for the purpose
 17 of issuing negotiable or nonnegotiable revenue bonds, notes, or certificates of
 18 participation to finance a self-insurance program for municipalities or municipal joint
 19 insurance arrangements organized under AS 21.76 or to provide assistance to
 20 governmental employers under AS 44.85.085(a); the powers, duties, and
 21 membership of the new entity or entities shall be limited to the powers, duties, and
 22 membership of the authority and stated in the regulation; the new entity or entities
 23 shall each be a public corporation and an instrumentality of the state with the same
 24 legal existence and continuing succession as the bond bank authority; and

25 (21) do all acts and things necessary, convenient, or desirable to carry
 26 out the powers expressly granted or necessarily implied in this chapter.

27 * **Sec. 3.** AS 44.85 is amended by adding new sections to read:

28 **Sec. 44.85.085. Creation of subsidiary corporation.** (a) The bond bank
 29 authority may create one or more subsidiary corporations for the following purposes:

30 (1) providing financial and other assistance to governmental employers
 31 to enable the governmental employers to reduce their costs of providing retirement

1 and other benefits to their employees by prepaying all or a portion of their shares of
2 the unfunded accrued actuarial liabilities of retirement systems;

3 (2) receiving payments and providing servicing for payments to or
4 from participating governmental employers; and

5 (3) performing other duties and providing other services as the
6 subsidiary corporation considers necessary or desirable to further the purposes set out
7 in (1) and (2) of this subsection.

8 (b) The bond bank authority may incorporate under AS 10.20.146 - 10.20.166
9 a subsidiary corporation created under (a) of this section. The bond bank authority
10 may transfer assets of the bond bank authority to the subsidiary corporation and may
11 agree to secure bonds, notes, commercial paper, or other obligations of the subsidiary
12 corporation with a reserve fund established under AS 44.85.270.

13 (c) A subsidiary corporation created under (a) of this section may borrow
14 money and issue bonds, notes, commercial paper, or other obligations as evidence of
15 that borrowing and may have all the powers of the bond bank authority that the bond
16 bank authority grants to it. The provisions of AS 44.85.130 - 44.85.170 and 44.85.270
17 - 44.85.390 apply to the subsidiary corporation and to bonds, notes, commercial paper,
18 or other obligations issued by the subsidiary corporation. Unless otherwise provided
19 by the bond bank authority, the debts, liabilities, and obligations of the subsidiary
20 corporation are not the debts, liabilities, or obligations of the bond bank authority.

21 (d) The staff of the bond bank authority serves as staff of a subsidiary
22 corporation created under (a) of this section. The bond bank authority shall determine
23 the membership or the process for selecting the membership of the board of directors
24 of the subsidiary corporation. The bond bank authority may permit some or all of its
25 directors to serve on the board of directors of the subsidiary corporation.

26 **Sec. 44.85.086. Powers of subsidiary corporation.** A subsidiary corporation
27 created under AS 44.85.085 has the following powers in addition those granted to it
28 under AS 44.85.085(c):

29 (1) to make loans to and enter into contracts with governmental
30 employers;

31 (2) to incur debt in furtherance of its purposes in the form of bonds,

notes, commercial paper, or other forms as the subsidiary corporation considers appropriate;

(3) to secure its debt with a pledge of any assets that are available to the subsidiary corporation for the purpose, including identified revenue and contractual payments from participating governmental employers, and the general assets and revenue of the subsidiary corporation; and

(4) to enter into contracts with underwriters, bond counsel, financial advisors, accountants, actuaries, and other contractors to provide assistance as the subsidiary corporation considers desirable to accomplish its purposes.

* **Sec. 4.** AS 44.85.100(b) is amended to read:

(b) The bond bank authority shall include in the report required by (a) of this section an estimate of the amount of revenue bonds of the bond bank authority to be issued during the fiscal year following the fiscal year in which the report is submitted.

Other than refunding bonds and other than bonds, notes, commercial paper, or other obligations issued under AS 44.85.086 and 44.85.180(a)(5), the [THE] bond bank authority may not issue revenue bonds [, OTHER THAN REFUNDING BONDS,] in excess of \$75,000,000 during any fiscal year beginning after June 30, 1981, unless the legislature, by law, approves the estimate required by this subsection for that fiscal year.

* **Sec. 5.** AS 44.85.180(a) is amended to read:

(a) Subject to AS 44.85.100(b), the bond bank authority may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this chapter, including

(1) the purchase of municipal bonds;

(2) the making of loans through the purchase of municipal bonds, notes, or certificates of participation secured by an agreement between the bond bank authority and a municipality or a municipal joint insurance arrangement organized under AS 21.76;

(3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be funded or refunded have or have not become due;

(4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bond bank authority incident to and necessary or convenient to carry out its corporate purposes and powers;

(5) assisting governmental employers to prepay all or a portion of their share of the unfunded accrued actuarial liabilities of retirement systems, with security as the bond bank authority considers reasonable.

* **Sec. 6.** AS 44.85.180(c) is amended to read:

(c) Notwithstanding the provisions of (a) and (b) of this section, the total amount of bond bank authority bonds and notes outstanding at any one time [, EXCEPT BONDS OR NOTES ISSUED TO FUND OR REFUND BONDS OR NOTES,] may not exceed \$500,000,000. **This subsection does not apply to (1) bonds or notes issued to fund or refund bonds or notes; (2) bonds, notes, commercial paper, and other obligations issued under AS 44.85.086 or 44.85.180(a)(5).**

* **Sec. 7.** AS 44.85.410(a)(5) is amended by adding a new paragraph to read:

(8) "governmental employer" means the State of Alaska or a municipality or other state or municipal governmental entity within the state, including an agency, instrumentality, district, school district, public corporation, department, division, or other subdivision of the state or of a municipality, in its capacity as an employer.

* **Sec. 8.** This act takes effect immediately under AS 01.10.070(c).